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10/021,016	12/19/2001	Alexandre Drobychev	P5794	8774
81505 7590 06/22/2010 MARSH FISCHMANN & BREYFOGLE LLP (Oracle formerly d/b/a Sun Microsystems) 8055 East Tufts Avenue Suite 450 Denver, CO 80237				
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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte ALEXANDRE DROBYCHEV, JAMES KONG, NIRUPAMA
MALLAVARUPU, and CHING-WEN CHU

Appeal 2009-002473
Application 10/021,016¹
Technology Center 2100

Decided: June 22, 2010

Before JAMES D. THOMAS, THU A. DANG, and
CAROLYN D. THOMAS, *Administrative Patent Judges*.

C. THOMAS, *Administrative Patent Judge*.

DECISION ON APPEAL

¹ Application filed December 19, 2001. The real party in interest is Sun Microsystems, Inc.

STATEMENT OF THE CASE

Appellants seek our review under 35 U.S.C. § 134 of the Examiner's final decision rejecting claims 1-16, 18-26, and 29-32, which are all the claims remaining in the application, as claims 17, 27, and 28 are cancelled. We have jurisdiction over the appeal under 35 U.S.C. § 6(b).

We AFFIRM.

The present invention relates to a business applications platform that provides features and services to business applications that are available across a wide variety of computing environments and operating systems.

Claim 1 is illustrative:

1. A computer system run-time platform for providing features and services for commerce software applications, and operatively adaptable to any server platform capable of server-side presentation logic, the applications platform comprising:

a software portion configured to provide access to, and caching of, data elements, including a data and object repository, independent of the run-time platform for providing commerce software applications;

a software portion configured to inherit hierarchical application logic from the commerce applications platform;

a software portion configured to provide static and dynamic presentation data for presentation by any server capable of server-side presentation logic;

a software portion configured to maintain permanent and session application data persistent across user request boundaries during a single user session; and

a software portion configured to enable access to a business object during the user session.

Appellants appeal the following rejection:

Claims 1-16, 18-26, and 29-32 under 35 U.S.C. § 102(b) as being anticipated by Netscape Application Builder, User Guide, 1999 (“NAB”).

FACTUAL FINDINGS

1. NAB discloses that “Netscape Application Builder enables you to access your data sources via data models and data access query files. . . . These extensions allow an application to communicate with transaction-processing systems” (p. C2-2.)

2. NAB discloses that “[i]n the Netscape Application Server environment, an application can contain three types of programming layers. . . . Data access layer Presentation layer Business layer.” (p. C2-1).

ANALYSIS

Appellants argue claims 1-16, 18-26, and 29-32 as a group (App. Br. 11-16). For claims 2-16, 18-26, and 29-32, Appellants repeat the same argument made for claim 1. We will, therefore, treat claims 2-16, 18-26, and 29-32 as standing or falling with claim 1.

Issue1: Did the Examiner err in finding that NAB discloses a software portion configured to provide access to, and caching of, data elements, including a data repository, *independent of the run-time platform* for providing commerce software applications?

Appellants argue that “[t]he limitation as claimed is that the application platform provides access to a data repository independent of the

run-time platform. NAB does not disclose such a capability nor does the Examiner make any effort to recite a portion of NAB that does so.” (App. Br. 13.)

The Examiner found that “prebuilt extensions and/or custom extensions have the ability to act as ‘plug-into’. The extensions allow an application to communicate with cross platforms such as CICS/IMS, IBM MQ series, [and] BEA Tuxedo Thus NAB [sic].” (Ans. 5.) We agree.

Here, the Examiner has specifically recited the portions of NAB (i.e., extensions) which the Examiner believes teaches the disputed limitation, contrary to Appellants’ arguments (Ans. 4-5; 9). For example, the Examiner found that NAB discloses the use of prebuilt extensions (i.e., a known way to add capabilities to files) to allow an application to communicate with transaction-processing systems (FF 1) (i.e., provide access to data elements independent of the run-time platform).

The Examiner bears the initial burden of presenting a prima facie case of obviousness, and Appellants have the burden of presenting a rebuttal to the prima facie case. *In re Oetiker*, 977 F.2d 1443, 1445 (Fed. Cir. 1992). Appellants have the burden on appeal to the Board to demonstrate error in the Examiner’s position. *In re Kahn*, 441 F.3d. 977, 985-986 (Fed. Cir. 2006).

In this case, no Reply Brief has been filed to contest before us the responsive arguments of the Examiner. As such, we endorse and adopt the Examiner’s findings.

Issue2: Did the Examiner err in finding that NAB discloses a software portion configured to provide static and dynamic presentation data for presentation by any server capable of server-side presentation logic?

Appellants argue that “NAB clearly states that EJB applications can be written once and then displayed on any server platform that supports EJBs. Server platforms that support EJBs and those that support server-side presentation logic are not necessarily the same.” (App. Br. 15.)

The Examiner found that in NAB “a servlet is as an extension [sic], and allows to communicated [sic] with any type of platforms such as CICS/IMS, IBM MQ Series, etc. (i.e., ‘*any server capable of server-side presentation logic*’). (Ans. 10.) We agree.

NAB discloses various transaction type systems that can be used to communicate with an application (FF 1). Claim 1 requires the use of *any* server capable of server-side presentation logic, not that all servers mentioned be capable of server-side presentation logic. In other words, what is needed is that NAB discloses *any* server capable of server-side presentation logic, even if others may not be. Here, the Examiner found various systems in NAB and Appellants have failed to establish that none of them are capable of server-side presentation logic. Instead, Appellants merely argue that EJB platforms are not necessarily the same as server-side presentation logic platforms (App. Br. 15.) However, NAB discloses that in the Netscape Application Server (NAS) environment, an application can

contain a presentation layer (FF 2). Thus, NAB discloses a server capable of server-side presentation logic.

Based on the record before us, we find that the Examiner did not err in rejecting independent claim 1, and independent claims 10 and 21, which include similar limitations. Accordingly, we affirm the rejection of independent claims 1, 10, and 21, as well as associated dependent claims 2-9, 11-16, 18-20, 22-26, and 29-32.

DECISION

We affirm the Examiner's § 102 rejection.

AFFIRMED

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